

Idaho Fish and Game Commission
Special Meeting
February 8, 2006
Fish and Game Headquarters
Boise, Idaho

Present in the Director's Office: Terry Mansfield, Deputy Director; Sharon Kiefer, Legislative Liaison; Jon Heggen, Chief, Bureau of Enforcement; Dallas Burkhalter, Deputy Attorney General; and Marilyn Whitney, Executive Assistant. Roger Fuhrman, Chief, Bureau of Communications joined the call via phone.

A special meeting of the Idaho Fish and Game Commission was held by telephone conference. The meeting was called to order by Chairman Cameron Wheeler at 8:04 a.m. with Commissioners Marcus Gibbs, Alex Irby, Gary Power, and Wayne Wright participating.

Sharon Kiefer, Legislative Liaison, updated the Commission on recent legislative developments. The deadline is approaching to introduce legislation. Both of the Department's legislative proposals have been introduced and printed.

Ms. Kiefer reported that staff provided technical testimony at the request of the Chair of the Senate Agricultural Affairs Committee regarding a bill on importation of domestic cervidae (S1279). The Committee voted to hold the bill after considerable testimony.

Several bills of interest previously discussed have not yet shown up on a Committee calendar. Staff is tracking multiple bills and preparing analyses of legislation of interest of directly affecting the Department. Staff is working with several legislators on RS proposals. There are also RS proposals emerging that affect Fish and Game that the Department did not get an opportunity to work on with legislators.

With respect to rules review, staff learned that the Department cannot pull a pending rule docket. Staff has been working with the House and Senate rules subcommittees on rule dockets. The Department did have four pending rules and expects three of those to be jointly approved by both House and Senate Committees and approved on the floor. Docket 13-0110-0501, Rules Governing Importation, Possession, Release, Sale or Salvage of Wildlife was voted as a "Do not pass" by the House Resource Committee and the same is expected in the Senate. The Department has committed to working on those rules for next year to address their concerns.

The Director and Chairman Wheeler presented the Department's FY 2007 budget to JFAC on Monday morning. The presentation went very well and there were very few questions. Staff is working on the one substantive question from Senator Sweet and expects to get that information to the Senator by next week.

The FY 2007 CEC recommendation is still in play. Today there will be a meeting, and the CEC Committee is expected to vote on various proposals.

There will be a joint House and Senate Resource Committee hearing on February 13 to discuss the Department's request for a categorical exclusion to land helicopters in wilderness to collar wolves. This has been precipitated by a letter from the House and Senate Resource Chairmen to Jack Troyer of the US

Forest Service and a Joint Memorial in process on this subject. Mr. Troyer has agreed to attend the hearing and talk about the categorical exclusion process. He will also provide information on the Forest Service's off-highway vehicle rules.

Commissioner Watts joined the call at 8:08 a.m.

Chairman Wheeler asked Commissioners if they would like to attend the February 13 joint hearing. Commissioner Gibbs expressed interest and Commissioner Watts will attend. Deputy AG Dallas Burkhalter commented that the meeting will need to be noticed if there is a quorum. Commissioners will contact the Department no later than Friday morning if they plan to attend.

Ms. Kiefer gave an overview of the Legislative Analysis sheets provided to Commissioners for the call (Appendix 39, Exhibit 23).

The first is Senate Joint Resolution 105 regarding a constitutional amendment for the right to hunt, fish, and trap. Staff worked with Representative Clete Edmunson on background information derived from the International Association of Fish and Wildlife Agencies (IAFWA) based on experiences of other states that have worked on similar Constitutional amendments. This Resolution has been pulled, and there will be a new RS introduced to the Senate Resources and Environment Committee on Friday.

The Resolution may have been pulled based on additional information from the Attorney General's office. Mr. Burkhalter explained that concerns center around the fact that the current system of regulating and managing hunting in Idaho is based on the theory that hunting is a privilege. This gives the state more control over setting seasons, closing seasons, revoking licenses, etc. The proposed Constitutional amendment would change hunting from a privilege to a right, which creates concerns about whether the state will maintain its same authority to manage and regulate hunting. A right requires much more due process and analysis before revoking licenses. The amendment as drafted could also have affected the way the Department manages nonresidents with respect to establishing quotas and charging higher fees. If it is a right, nonresidents would be entitled to equal treatment and protection. The Attorney General's office doesn't have an answer for these questions as they don't know how the Idaho courts would interpret this change amendment.

Ms. Kiefer gave an overview of the legislative analysis for House Joint Memorial No. 10, sponsored by Representative Ken Roberts. This Memorial urges Gail Norton, Secretary of the Interior, to meet with Montana and Idaho to consider and agree upon alternative strategies to delist the gray wolf in Idaho and Montana. This Memorial went directly from Introduction to a 2nd reading. It had a 3rd reading yesterday. If it passes, it will go to the House. The purpose of this Memorial is to urge the states of Idaho and Montana and the US Fish and Wildlife Service (USFWS) not to allow the lack of an approved wolf management plan in Wyoming to be insurmountable in terms of moving ahead with delisting.

Commissioners discussed the Federal Register Notice published by USFWS. Deputy Director Mansfield updated Commissioners on dialog with Jeff Foss of USFWS, Boise office. Mr. Foss explained that this was a preliminary notice on a rule amendment. It primarily addresses a more biologically based definition of the experimental non-essential population, makes biologically based revisions with respect to Eastern Washington, Oregon, and North Central Utah based on further habitat analysis. It is preliminary in nature. They will put it out for 15-30 days for public input, and then the rule will surface. It has no implications relative to the definition of the existing DPS or any relevance to Wyoming.

06-10 Commissioner Gibbs moved and Commissioner Irby seconded a motion **TO SEND A LETTER FROM THE COMMISSION TO REPRESENTATIVE KEN ROBERTS AND THE CHAIRMEN OF THE HOUSE AND SENATE RESOURCE COMMITTEES ENDORSING HOUSE JOINT MEMORIAL NO. 10.** The motion carried unanimously.

Ms. Kiefer provided an overview of House Joint Memorial 11 sponsored by Representatives Mike Moyle and Ken Andrus. Staff worked with Representative Andrus on technical background. This urges the Forest Service to issue a decision on the Department request for a categorical exclusion to land helicopters in the wilderness in the course of flying big game counts to allow collaring wolves in the Frank Church wilderness. This was one of focal points of the first joint hearing on January 11. The Legislature asked what they could do to help and this is one way they are providing assistance.

Commissioner Irby commented that in the meeting with the Nez Perce Tribe, they reiterated their support of the Department's request to land helicopters in the wilderness. They offered to partner with the Department in these efforts.

06-11 Commissioner Irby moved and Commissioner Power seconded a motion **TO SEND A LETTER FROM THE COMMISSION TO REPRESENTATIVES ANDRUS AND MOYLE ENDORSING HOUSE JOINT MEMORIAL NO. 11.** The motion carried in a unanimous vote.

Letters to the respective legislators will be drafted for the Chairman's review and the Director's signature on behalf of the Commission.

Commissioners directed Ms. Keifer to contact the Nez Perce Tribe to see if they will formally lend their support to the Department's efforts to secure permission from the USFS to land helicopters in the wilderness.

Commissioner Power pointed out that the Tribe does not appear to be as supportive of the proposal to control wolves in the Lolo Zone. Commissioner Irby commented that yesterday's meeting was positive, and as the meeting with the Tribal Council progressed, he got the impression that they understood the Commission and Department position better. He does not believe they will have a strong stance against the Department's position.

Commissioner Power commented that the Department may need to clarify the terminology being used to refer to wolf numbers, e.g. breeding pairs versus confirmed packs. There is overlap in the numbers. Deputy Director Mansfield noted that there are technical definitions provided in the USFWS recovery criteria. The Department has used conservative estimates for Idaho's wolf population. Communications and technical staff will work on making definitions more clear.

Commissioner Irby commented that the speakers at last night's public hearing on the wolf control proposal for the Lolo Zone were well versed in the biology and posed good scientific questions. The issue is more that the public doesn't understand the dynamics of what has already been done.

At the next Commission meeting, staff will have the latest information on the surveys and harvest information.

Ms. Kiefer updated Commissioners on SB1258 which is the Department sponsored legislation on the fishing permit for long-term care facilities is on its 3rd reading in the Senate. Senator Langhorst is

sponsoring the bill. In addition, HB523 which is the Department sponsored legislation to give the Commission authority to add a surcharge on controlled hunt applications to implement bonus points has been printed and sent to Committee but has not shown up on a Committee calendar yet. Representative Wood voted to print the RS and there was no debate or discussion by the House Resources Committee. Ms. Kiefer commented that the Department will likely get more questions on the actual fee process and on what the rule set for bonus points will look like. Ms. Kiefer will contact Rep Stevenson to get a sense of when he might get this bill onto the calendar. Chairman Wheeler asked Ms. Kiefer to track this closely and make legislators aware of the Commission position.

Ms. Kiefer updated Commissioners on a request from the last conference call regarding a forecasting of how many seniors may enter the ranks of license buyers over the next five years. Staff has estimated that 3,300 - 3,500 license buyers will move into that age and residency class.

Chairman Wheeler commented that the legislation to roll back the senior license increase doesn't appear to be a high priority. Ms. Kiefer noted that Senator Schroeder has not advocated putting it on his calendar. Commissioner Power commented that seniors are generally better able to pay than juniors. Commissioners would like to see the junior and senior license fees on the same level.

Staff expects an RS proposal on disabled licenses to surface later this week. Staff has not been involved in the disability RS. Commissioner Watts will get the Commission a copy of the legislation.

Chairman Wheeler thanked Ms. Kiefer for simplifying and bringing structure to the process. Commissioner Watts commented that perhaps they don't need as much background information.

The Deputy Director reported that he, Director Huffaker, and Ms. Kiefer attended a reception Monday night hosted by the Sportsmen's Caucus Advisory Council (SCAC). Approximately 25 representatives from various sportsmen's groups and 20 legislators attended, both at large legislators and those from the germane committees. The SCAC is active and working to maintain a voice and exchange information.

Chairman Wheeler commented that the JFAC presentation on Monday went exceptionally well, and the Department's work on preparing and streamlining the budget has paid big dividends. He also passed on JFAC Chair, Senator Dean Cameron's compliment on the current Commission and its relationship with the Legislature. Chairman Wheeler feels that as long as the Commission and Department maintain a high level of integrity and keep information transparent, the Department will remain in good standing with the germane committees. Commissioner Watts concurred with the Chairman.

The meeting adjourned at 8:58 a.m.